

REMARKS

The present response is accompanied by a Request for Continued Examination (RCE). Claims 1-87 are pending in the present application. Claims 1-71 have been canceled without prejudice. Claims 72, 78-80, and 87 have been amended. After entry of the foregoing amendments, claims 72-87 will be pending in the present application.

Claims 1-4, 7, 31-34, 41-45, 47, 66-69, 72-77, 81, and 83-86 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 3,072,118 (“Standerwick”) in view of U.S. Patent 6,663,630 (“Farley”). Claims 5, 6, and 46 are rejected under 35 U.S.C. § 103(a) as unpatentable over Standerwick, in view of Farley, and further in view of U.S. Patent 4,955,891 (“Carol”). Claims 8, 9, and 37-39 are rejected under 35 U.S.C. § 103(a) as unpatentable over Standerwick, in view of Farley, and further in view of U.S. Patent 6,432,109 (“Letendart”). Claims 35, 36, 70, and 71 are rejected under 35 U.S.C. § 103(a) as unpatentable over Standerwick, in view of Farley, and further in view of U.S. Patent 2,055,024 (“Bittneer”).

The rejections of claims 1-71 have been rendered moot by Applicant’s cancellation of these claims. Applicant respectfully traverses the rejection of claim 72, but has amended claim 72 in the interest of advancing prosecution. The amendment of claim 72 finds support in at least paragraphs [0062] – [0064] of the present application. Claims 78-80 and 87 have been amended to correct a typographical error.

Applicant respectfully submits that the Office Action fails to establish *prima facie* obviousness in accordance with M.P.E.P. § 1504.03 (II) with respect to claim 72. To establish *prima facie* obviousness, all the claim limitations must be taught or suggested by the prior art (M.P.E.P. § 1504.03 (II)). The Office Action asserts:

[r]egarding the method claims, it is further noted that, given the device of the aforementioned combination and a patient having a cranial fracture in need of reduction, it would have been abundantly obvious to a surgeon of ordinary skill in the art to use *the device* to reduce the bone, or at the very least to try to use *the device* to reduce the bone, since it would have every appearance of being suitable to the task (e.g. due to the frame about the skull, the adjustable posts, the threaded screws, etc.).

The office Action, however, does not allege that any of the cited references teaches or suggests the steps of method claim 72. Further, Applicant respectfully submits that *the device* that allegedly makes the method claims obvious is not in the prior art.

The Office Action recognizes that *the device* is not in the prior art and alleges only that *the device* would have been obvious in view Standerwick and Farley. Although the prior art references do not teach or suggest all of the steps of method claim 72, the Office Action asserts that method claim 72 is obvious when the prior art references are combined in accordance with *the device* recited claims of the present application. Applicant respectfully submits that this is improper hindsight because it uses Applicant's own disclosure (i.e. claims directed to *the device*) as the basis for the obviousness rejection of method claim 72.

Claim 72 recites, in pertinent part,

continuing to rotate the nut so that the fragment manipulator is drawn up through the nut to pull the located bone portion attached to the fragment manipulator toward the reduction platform.

Applicant respectfully submits that Standerwick and Farley do not teach or suggest this step, whether alone or in combination. None of the cited portions of Standerwick or Farley are configured to reduce bone fractures. In Standerwick, pin 8 is inserted through a slot in the bar of the head frame and into the skin or bone of the head to affix the head frame in place (see column 3, lines 14-37). Further, pin 8 is secured to the bar by tightening thumbnuts 13 and 14 (see column 3, lines 21-33). There is nothing in Standerwick to suggest that pin 8 may be used to pull a bone portion toward the head frame and reduce a bone fracture. Farley teaches the use of bone screws to secure and stabilize a cervical fixation system. Again, there is nothing in Farley to suggest that the bone screws may be used to pull a bone portion toward the cervical fixation system and reduce a bone fracture.

Thus, Applicant respectfully submits that independent claim 72 patentably defines over Standerwick, whether alone or in combination with Farley, and is allowable. As claims 73-87 ultimately depend from claim 72, Applicant respectfully submits that claims 73-87 likewise define over Standerwick, whether alone or in combination with Farley, and are allowable. Applicant's reliance on the patentability of claim 72 for the patentability of claims 73-87 is not to be construed as Applicant's admission of Examiner's assertions regarding

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claims 73-87, or as Applicant's admission that these claims are not novel and unobvious on their own merits.

Dependent claims 78-80, 82, and 87 were withdrawn from consideration pursuant to a species election. Applicant respectfully requests that these dependent claims be rejoined to the application in view of the allowability of independent claim 72.

Conclusion

For all the foregoing reasons, Applicant respectfully submits that the application is in condition for allowance. Accordingly, a Notice of Allowance for claims 72-87 is respectfully requested.

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